

**Lincoln, Nebraska
June 19, 2009**

**COMMUNITY CORRECTIONS COUNCIL
*MEETING MINUTES***

The Community Corrections Council (Council) met Friday, June 19, 2009, 9:00 a.m., at Bryan LGH College of Health Sciences, Lincoln, Nebraska. The meeting was open to the public and was preceded by advance publicized notice in the Lincoln Journal Star.

Members present:

Scot Adams
Mike Behm
Eleanor Devlin
Thomas Dorwart
Ellen Fabian-Brokofsky
Darrell Fisher
Karen Flowers
Cathy Gibson-Beltz
Robert Houston
John P. Icenogle, Vice-Chair
Joe Kelly
Robert Lindemeier
Pete Pirsch
Janice Walker

Members absent:

Esther Casmer
Brenda Council
Jeff Davis

Council Staff present:

Linda Krutz, Executive Director
Jeffrey Beaty, Policy Analyst
Tia Bachman, Admin. Assistant

Others present:

Jacki Allensworth
Eric Asboe
Bruce Ayers
Molly Burton
Scott Carlson
Jake Dawes
Steve King
John Krejci
Doug Koebernick
Ed Lankas
Camille McMahon-Boies
Roy Mehmken
Deb Minardi
Doug Nichols
Lamont Rainey
Rex Richard
Julie Rogers
Steve Rowoldt
David Wegner

CALL TO ORDER, WELCOME, & OVERVIEW

Vice-Chairperson John Icenogle called the Council meeting to order at 9:03 a.m., announced the meeting is subject to the Open Meetings Act and gave an overview of the meeting. Attendance is indicated above.

Icenogle welcomed Eleanor Devlin and Darrell Fisher as the two newly appointed members to the Council. Devlin fills the Community Based Behavioral Health Services, District 2 position, and Fisher fills the at large position vacated by former Chairperson Kermit Brashear. Thomas Dorwart, at large, and Jeff Davis, Sarpy County Sherriiff, were recognized as being reappointed by the Governor.

APPROVAL OF MINUTES

The May 1, 2009 meeting minutes were approved as presented.

ELECTION OF COUNCIL CHAIRPERSON DISCUSSION

Icenogle said the Chairperson seat is up for election due to being vacated by Brashear. The Vice-Chairperson seat is up for election as well, due to the two year term limit of Icenogle ending in August 2009. Icenogle proposed conducting the nomination and elections by email between now and the August meeting. Joe Kelly, Deputy Attorney for Lancaster County, questioned whether an email election complied with the Open Meetings Act. It was determined by consensus that nominations for Chairperson and Vice-Chairperson will be solicited via email by Council staff and the election would be held at the next Council meeting.

Janice Walker, State Court Administrator, questioned who would be able to vote for the Chairperson and Vice-Chairperson positions as well as who was able to be elected. Jeff Beaty, Council, said the Council statutes provides that "The Council by majority vote elect a Chairperson from among the members of the Council." When the Vice-Chairperson was elected two years ago, it was decided that because all members are eligible to sit as Chairperson, they would also have a vote. This practice did not create a separation of powers problem because the election of a Chairperson and Vice-Chairperson is a procedural issue rather than a policy determination.

A motion was made by Thomas Dorwart and seconded by Bob Lindemeier to elect a Chairperson for an indefinite term and the Vice-Chairperson for a term of two years.

The motion was amended to read: A motion was made by Thomas Dorwart and seconded by Bob Lindemeier to elect a Chairperson and Vice-Chairperson for a term of four years. Roll call was conducted and the motion passed unanimously.

Walker questioned if taking nominations by email would negate the Open Meetings Act. Linda Krutz, Council, said that it would not as it would be similar to having a nominating committee.

A motion was made by Cathy Gibson-Beltz and seconded by Bob Houston to make nominations for Chairperson and Vice-Chairperson by email to the Council staff. Voting will be conducted at the next Council meeting. Roll call was conducted and the motion passed unanimously.

COMMUNITY CORRECTIONS FINANCIAL REPORT

Bruce Ayers, Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission), gave the *Community Corrections Financial Report*. All Council General Funds and Parole Cash Funds have been allocated. The Council Uniform Data Analysis Fund has \$19,249 unallocated funds available for new contracts. The funds which are not allocated in fiscal year (FY) 08-09 will carry over to FY 09-10.

Ayers then presented the *Community Corrections Council Fees Report* for the period of July 1, 2008 to May 31, 2009. The Uniform Data Analysis Fund has a balance of \$1,144,432 which included \$350,000 being transferred to the Office of Violence Prevention as part of LB63. Probation Fees/Reimbursements has a balance of \$ 10,073,815. Parole Fees has a balance of \$760,529. The total revenue for the Uniform Data Analysis Fund, Probation Fees/Reimbursements, and Parole Fees are relatively similar to FY 07-08.

The Community Corrections Council General Funds total appropriation for FY 08-09 was \$5,777,863 with a pass thru amount of \$5,456,873. The total appropriation for FY 09-10 is \$5,831,581 with an expected pass thru amount of \$5,507,163.

The Community Corrections Council Cash Fund (Uniform Data Fund) total appropriation for FY 08-09 was \$360,560 with \$284,560 allocated to data projects and \$76,000 for operations. The total appropriation for FY 09-10 is \$516,558 with \$436,558 allocated for data projects and \$80,000 for operations.

TARGET POPULATION REPORT & COMMUNITY CORRECTIONS PROGRAMS REPORT

Beaty presented the *Target Population Report, April 2009*. Total admissions to the Department of Correctional Services (DCS) are down 10 percent compared to the same time period in 2008. The target population of Felony Drug Offenders (FDO) is down: total admissions down 15 percent; sentenced to three years or less down 35 percent. Total parole admissions are down 10 percent, and FDO admissions to parole are down 16 percent. Total probation admissions are similar to the same time in 2008, however FDO admissions to probation are down 29 percent.

The average population of offenders in DCS for 2009 is similar to the average population for 2008. The target population of FDO is down 12 percent, and FDO sentenced to three years or less is down 31 percent. Total offenders on parole are down 10 percent, and FDO's on parole is down 13 percent. The total number of offenders on probation is similar to 2008, yet the number of FDO's on probation is down 7 percent.

Beaty then presented the *Community Corrections Programs Reports, April 2009*. Specialized Substance Abuse Supervision (SSAS) has a total population of 289 individuals.

Admissions to SSAS consist of 86 percent probation clients and 14 percent parole clients. District 6 (Lancaster) had the most admissions with 5 probation clients. SSAS has added 30 clients since December 2008, an increase of 12 percent, and is operating at 93 percent capacity.

Problem Solving Courts (PSC) were operating at 77 percent of capacity in April 2009. Lancaster County Adult Drug Court and District 16 Adult Drug court (Dodge County) were both operating above 100 percent capacity. Douglas County Adult Drug Court Track 1 and Douglas County Adult Drug Court Track 2 have merged into Douglas County Adult Drug Court. In total, the adult drug courts had 39 new admissions in April 2009 and 6 departures. At least 50 percent of departures were graduations.

DUI ANALYSIS

Beaty presented the *DUI Analysis*. Driving Under the Influence (DUI) admissions to DCS were relatively flat from 2000 to 2006. High Blood Alcohol Concentration (BAC) penalties for first and second offense DUI were first adopted in 2005 with LB 594, but no admissions to DCS occurred from high BAC until 2006. In 2006, LB 925 created a separate penalty for fifth offense DUI, expanded the high BAC penalty to include first through fifth offense DUI, and reduced the high BAC threshold from .16 to .15.

The total DUI admissions in 2007 was 167, 16 violent and 151 non-violent. In 2008, there were a total of 205 admissions, 33 violent and 172 non-violent. Violent offenses include individuals who had a conviction in one of the following offense categories in addition to a DUI: DUI with injury, second degree murder, motor vehicle homicide, arson, assault, domestic assault, child abuse, firearm offenses, resisting arrest, terroristic threats, and sexual assault. The noticeable increase in 2007 and 2008 was likely the result of the increased DUI penalties from LB 925.

Between 2000 and 2008, fourth offense DUI represented the majority of admissions and reached a peak of 100 admissions in 2005. Third offense DUI increased substantially in 2008 with a total of 69 admissions for third offense high BAC DUI and third offense DUI combined which represented over a 50 percent increase in 2007 for the same offenses.

Icenogle requested data be compiled on DUI offenders who do not have any other offenses attached to their sentence. Beaty suggested adding DUI offenders that also have a minor driving offense such as a suspended license.

Karen Flowers, District Court Judge, said that if PSC's and SSAS are among the reasons for success with the FDO population, it would not be difficult to suggest PSC's could also have a success with the DUI population since it is also involves substance abuse.

Scot Adams, Director of Health and Human Services (DHHS), said a very low percentage of arrests for DUI are going to prison and there may be a better group of offenders to consider as the next addition to the target population. Icenogle said the short sentence of the DUI offenders does not leave room for sufficient rehabilitative treatment. It would be better to deal with those offenders on the front end rather than see them back in prison.

UNIFORM DATA FUND TRANSFER TO VERA

Icenogle discussed the transfer of \$40,000 from the Uniform Data Fund to the Vera Institute of Justice (Vera) as matching funds for the ongoing technical assistance they provide the Council. During the Council Strategic Planning Retreat in 2008, facilitated by Vera, SSAS and the PSC's were identified as important programs that were implemented and should be evaluated in the future. The Council received a letter from Vera suggesting the time was appropriate and that they would be able to conduct an outcome evaluation of SSAS and requesting a financial contribution for the study from Nebraska of \$40,000. This contribution represented approximately 50 percent of the cost of the study, the remainder would be provided by private match dollars from The Pew Charitable Trusts (Pew).

Icenogle questioned if it was the appropriate time to conduct the evaluation, what the scope should be, and who should conduct the evaluation. Dorwart questioned if there are other organizations that could conduct the evaluation and why Vera has been the main evaluator. Krutz said Vera originally began working with the Council during the time when the Council was still a working group, and are familiar with Nebraska's programs. Also, Nebraska was selected 18 months ago to receive technical support by Pew, with support being provided by Vera.

Krutz said if the Council decides to have Vera conduct an outcome evaluation on the SSAS program, a sole source deviation in addition to the contract will have to be completed. On previous contracts with Vera, a sole source request was all that was required. Since the cumulative amount of contracts with Vera is now greater than \$50,000, a deviation is now required. The deviation provides a specific rationale for why the Council chose Vera and did not let the project out for bid.

Icenogle noted T. Hank Robinson, University of Nebraska-Omaha (UNO), who conducted the Meth Study for the Council, as an option. Ellen Fabian-Brokofsky, Probation Administrator, suggested Dr. Kathleen Grant who conducted the outcome evaluation for the SSAS program. Bob Houston, Director of DCS, noted that if local people can do the work, it is better to spend Nebraska's money in Nebraska. UNO also conducted evaluations at the Work Ethic Camp and DCS's education programs.

Fabian-Brokofsky said not enough time has elapsed from the beginning of the program to be able to evaluate the outcomes and effectiveness of the SSAS program. The ideal time to conduct an outcome evaluation for SSAS would be the end of 2009 in order to include the data on offenders who have completed SSAS and their recidivism rate. Houston said if you look at research, evaluations should be conducted over time and be built into all programs. Adams suggested that evaluations continue to be a part of the budgets.

A motion was made by Mike Behm that as a body, the Community Corrections Council continues to have an evaluation of the Specialized Substance Abuse Supervision program and Problem-Solving Courts with the possibility of having a separate committee to explore the different organizations to conduct the evaluations. Joe Kelly opposed the motion. The motion died.

Icenogle reiterated the Council's decision in which it is not the appropriate time to conduct an outcome evaluation on the SSAS program. The members are also in agreement that the Council should proceed in deciding how to evaluate all programs in the future.

A motion was made by Joe Kelly and seconded by Bob Houston to notify Vera Institute of Justice that the Community Corrections Council is not interested in a \$40,000 - \$40,000 split for a Specialized Substance Abuse Supervision outcome evaluation at this time. Roll call was conducted and the motion passed unanimously.

Adams said the next step of the Council is to have Krutz create a plan for evaluations. The plan should include all programs the Council is involved with, including PSC's, the Fee for Service Voucher (voucher) program, SSAS, and reporting centers (RC). All agencies represented by the Council should be consulted with. The plan could consist of key questions on what items the Council should examine. A timetable or schedule should be created for when each program will be evaluated. For example, Problem-Solving Courts could be first and in the year 2011, the Council can evaluate SSAS. The plan should also include recommendations on which particular outcome variables the Council can focus on and inform the legislature are important.

Cathy Gibson-Beltz, Parole Administrator, said it seems similar to forming a request for proposal. Houston suggested adding a budget to the plan so the Council has an idea of costs for each year or what percent of money spent should be dedicated to research.

Fisher said the Council already has a Strategic Plan. Krutz said it could be a component of the Strategic Plan. Fisher said programmatically, the idea is concept, development, implementation, and finally evaluation. A strategy for evaluating every program should be a part of the Strategic Plan. Adams agreed that the evaluation plan should become a portion of the Strategic Plan.

Icenogle proposed a preliminary draft be presented at the August 14, 2009 meeting. It can then be critiqued and added on to.

A motion was made by Scot Adams and seconded by Mike Behm to direct Linda Krutz, Community Corrections Council, to present an evaluation plan consistent with the Strategic Plan at the August 14, 2009 meeting. The plan will incorporate all programs supported by the Council, including a time table for program evaluations, outcome variables, and budget recommendations.

A fifteen minute break was called by Icenogle.
The Council reconvened at 11:02 a.m.

PAROLE INFORMATION MANAGEMENT SYSTEM UPDATE

Gibson-Beltz presented the *Parole Information Management System (PIMS) Update*. Funding for PIMS is through the Uniform Data Fund. Parole officers are currently testing the completed portions including: assessments, contact notes, employment, vehicle, personalized

plan/supervision case plan, drug testing, progress reports, directives, residence, education, electronic monitoring, special conditions, and program fees. Portions that are still in development include: disciplinary, interstate compact, parole hearings, lifetime supervision sex offenders, and parole interface with probation to pay vouchers.

Parole contracted with the Council and received \$239,879 from the Uniform Data Fund to complete the projects. As of June 1, 2009, \$122,578 has been used to complete projects. It is estimated that completion of all projects will be well under the contracted amount.

A request was made for an extension of the June 30, 2009 completion date to August 31, 2009 with continued authority to spend the funds within the previously set parameters, in order to complete and test projects. A request was also made to expand the scope of the project by including data collection from Parole Board hearings and review of Parole Board hearings. The expansion of the scope would allow parole officers to enter data for the field file at the hearings.

Krutz said the extension of the completion date to August 31, 2009 and the expansion of the scope will be discussed with Mike Overton, Crime Commission. No objections were noted.

PAROLE CASH FUND BUDGET REQUEST

Gibson-Beltz, presented the *Fiscal Year 2009-10 Cash Fund Budget Plan for Parole Community Corrections*. The programming expenses represent the maximum contract amount that will be paid to State Probation for SSAS services provided. Operational expenses include training costs as well as implementation of evidence based practices or evaluation of current programs/processes.

Gibson-Beltz said the cash fund budget plan includes:

Programming Expenses:	\$85,000
Operational Expenses:	<u>\$10,500</u>
Total	\$95,500

A motion was made by Mike Behm and seconded by Karen Flowers to approve the Fiscal Year 2009-10 Cash Fund Budget Plan for Parole Community Corrections of \$95,500 to include Programming Expenses of \$85,000, and Operational Expenses of \$10,500. Roll call was conducted and the motion passed unanimously.

Icenogle said the cash balance in the Parole Cash Fund far exceeds the spending authority being granted. Fabian-Brokofsky said the original contract for both probation and parole was set up on sustainability, and has not changed greatly since the initial contract. Icenogle questioned if new or expanded programs need to be explained to the legislature so a greater spending authority could be granted. Fabian-Brokofsky said the strategic plan is structured around expanding the programs and could be a tool for that discussion.

PROBATION CASH FUND BUDGET REQUEST

Deb Minardi, Deputy Probation Administrator, presented the *Fiscal Year 2009-10 Cash Fund Budget Plan for State Probation Community Corrections*. The request was divided into three sections: RC Costs, Substance Abuse Treatment Services, and Project Requests totaling \$6,816,380.

RC's consist of five sites and seven centers in the following counties: Douglas, Lancaster, Sarpy, Otoe, Dawson, Buffalo, and Dakota. There are approximately 4,000 offender program visits per month. The RC's offer a multitude of services including education, employment, pre-treatment, cognitive groups, and drug testing. RC's are funded through a combination of state, county, and offender fee funds. Community Corrections Council General Funds (General Funds) are used to pay support staff salaries, counties pay for the facilities, and the offender fees pays for the contracts.

RC Costs include:	General Funds /Probation Cash Fund	
Site and support staffing	\$1,398,830	
Client services		\$ 500,000
Operational support		\$ 92,818
Total	\$1,991,648	

The voucher program gives financial assistance to offenders who require substance abuse treatment. The target population of the voucher program includes FDO's, all parolees, probation violators, Class I misdemeanor drug offenses, and third offense DUI or above. Vouchers assist offenders in paying for evaluations, outpatient services, intensive outpatient services, and short term residential treatment. From July 2008 through May 2009, 1,656 probation offenders, 688 PSC offenders, and over 400 parolees have been assisted by the voucher program.

Substance abuse treatment services	General Funds /Probation Cash Fund	
Voucher target population:	\$1,914,550	\$2,017,182
Total	\$3,931,732	

Funding is being requested for four new projects. Continuous Alcohol Monitoring (CAM) monitors offenders 24 hours a day using an ankle bracelet. A recent study determined 83 percent of offenders remained alcohol free while on CAM.

Electronic Reporting Service (ERS) is also a valuable tool for probation. ERS allows probation officers to track low risk offenders by requiring offenders to call in monthly to an automated telephone system, which frees up officer resources to focus on high risk offenders.

Probation, parole, and PSC clients utilize RC's to attend cognitive groups. The use of cognitive groups to change offender thinking and behavior is a proven practice to reduce recidivism. The materials to run the groups include a participant handbook which costs \$25 per book.

The probation/judicial branch education/training request consists of the continued development and maintenance of a web-based training program, training for managerial staff and incentive pay for trainers, project costs of piloting a DUI program in one probation district, and funding for the purchase of an audience responding system to be used in conjunction with web-based training.

Project Requests include:	Probation Cash Fund
Continuous Alcohol Monitoring (CAM),	\$ 520,000
Electronic Reporting Service (ERS):	\$ 213,750
Cognitive Group Workbooks	\$ 40,000
Probation/Judicial Branch Education/Training	<u>\$ 119,250</u>
Total	\$ 893,000

According to the Vera process study conducted on SSAS, service gaps exist in mental health evaluation and treatment and transportation. Due to the limited spending authority, these services are not able to be funded. If an increase in the spending authority occurs, probation will look to these areas to be funded.

Another area in need of funding is RC expansion. Norfolk, North Platte, Grand Island, and Scottsbluff communities currently have space available to house the RC's, but funding consistent with existing sites is necessary to bring these potential sites into reality.

Flowers questioned how much one reporting center would cost to be funded. Fabian-Brokofsky said it costs approximately \$100,000 for contracts per center, but that does not cover the cost for staff. Flowers said the funding for the probation/judicial branch education/training request could then be used to open one RC instead. By statute, funding is to be used to enhance community corrections programs throughout the state.

A motion was made by Scot Adams and seconded by Cathy Gibson-Beltz to approve the Fiscal Year 2009-10 Cash Fund Budget Plan for State Probation Community Corrections totaling \$6,816,380, including reporting center costs of \$1,991,648, substance abuse treatment services of \$3,931,732, and project requests of \$893,000 as presented to the Council. Roll call was conducted and the motion passed unanimously.

PROBLEM SOLVING COURT BUDGET REQUEST

Scott Carlson, Nebraska Supreme Court, presented the *Fiscal Year 2009-10 Budget Plan for State Problem-Solving Courts* totaling \$2,193,783. The majority of funds will go towards personnel. The costs include the following:

Existing Probation-Based Problem-Solving Courts Personnel	\$1,205,311
Existing Non Probation-Based Problem Solving-Courts Personnel	\$ 736,669
Administrative-Salary/Benefits for Statewide Coordination & Operation	\$ 126,500
New Problem-Solving Court Personnel for New & Existing Courts	<u>\$ 125,303</u>
Total	\$2,193,783

Funding for research and evaluation is not built into the budget. An application has been submitted for a Federal grant to fund a statewide evaluation for PSC. Also, The National Center for State Courts provided technical assistance to assist in creating performance measures for the state.

Authorization has recently been given to hire a coordinator/supervision officer for the 8th District (O'Neill, Valentine). A multi-county drug court is also in the planning stages to serve an entire judicial district. Technology may also be brought in to conduct remote hearings.

There has also been interest from judges in the 5th District (Seward, Columbus) to utilize the existing drug courts in the surrounding area. Clients would be referred to the existing courts instead of a new court being developed.

A motion was made by Cathy Gibson-Beltz and seconded by Mike Behm to approve the Fiscal Year 2009-10 Budget Plan for State Problem-Solving Courts of \$2,193,783 to include existing probation-based Problem-Solving Courts personnel costs of \$1,205,311, existing non probation-based Problem Solving-Courts personnel costs of \$736,669, administrative-salary/benefits for statewide coordination and operation costs of \$126,500, and new Problem-Solving Court personnel for new and existing court costs of \$125,303 as presented to the Council. Roll call was conducted and the motion passed unanimously.

2009 LEGISLATIVE UPDATE

Beaty presented the *2009 Legislative Update*. LR 171 is an interim study introduced the Executive Board of the Legislature. The interim study calls for the creation of the Sentencing and Recidivism Task Force comprised of seven members of the legislature, who will study the sentencing of juveniles and adults to Nebraska correctional institutions for rehabilitative purposes, including the associated fiscal impact. The task force will also study issues relating to the reentry of the juveniles and adults back into the communities.

Senator Pete Pirsch has been named as a member of the task force. Council staff has been contacted to assist with the interim study as well as members of probation, parole, and PSC's.

LR 239, also under the direction of the Judiciary Committee, was introduced by Pirsch. The interim study is designed to assess the effectiveness of existing community corrections programs and to determine whether the community corrections concept could be expanded to save taxpayer money, prevent nonviolent, low-risk offender recidivism, and free up prison space for high-risk and violent offenders.

COUNCIL RETREAT WORK PLAN / STRATEGIC PLAN

Icenogle said the Council Retreat Work Plan/Strategic Plan was addressed during the *Uniform Data Fund Transfer to Vera* agenda item.

ADJOURNMENT

There being no further business, at 12:09 p.m. the meeting was adjourned.

The July 17, 2009 Council meeting is cancelled. The next scheduled meeting of the Council is Friday, August 14, 2009, 9:00 a.m., at Bryan LGH College of Health Sciences.

Respectfully submitted,

Tia M. Bachman
Administrative Assistant